

**SENATE . . . . . No. 561**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Adam G. Hinds*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting and protecting Massachusetts forests.

PETITION OF:

NAME:

*Adam G. Hinds*

DISTRICT/ADDRESS:

*Berkshire, Hampshire, Franklin and  
Hampden*

**SENATE . . . . . No. 561**

By Mr. Hinds, a petition (accompanied by bill, Senate, No. 561) of Adam G. Hinds for legislation to promote and protect Massachusetts forests. Environment, Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act promoting and protecting Massachusetts forests.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 132 of the General Laws, as appearing in the 2016 Official Edition,  
2 is hereby amended by inserting after section 51 the following 3 sections:-

3 Section 52. For the purposes of Sections 52 to 54, inclusive, the following words shall  
4 have the following meanings:

5 “Buffer area”, an area on state-owned land immediately adjacent to an old growth forest  
6 that is of sufficient size and configuration, as determined by the secretary, for each old growth  
7 forest to protect the old growth forest from human activity and alteration and mitigate the effects  
8 of natural disturbances including, but not limited to wind, storms, fire, insect infestation, invasive  
9 species and disease.

10 “Old growth forest”, an area of contiguous forest on state-owned land that:

11 (1) shows no evidence of significant human disturbance that originated on the site;

12 (2) has a significant component of older trees that are greater than 50 percent of the  
13 maximum longevity for the particular species;

14 (3) is at least 5 acres in size; and

15 (4) has either: (i) the capacity for self-perpetuation; or (ii) the characteristics of a forest  
16 which are indicative of an old growth forest and which otherwise meets the criteria established  
17 by regulations of the secretary. Modification of this definition may be made by regulation to  
18 incorporate future scientific advances in the understanding of old growth forests.

19 “Old growth forest reserve”, forest area comprised of old growth forest and buffer area.

20 “Recommending party”, the commissioner of conservation and recreation or the  
21 commissioner of fish and game.

22 “Secretary”, the secretary of energy and environmental affairs.

23 “State-owned land”, forest land owned in fee by the commonwealth under the custody  
24 and control of the department of conservation and recreation or the department of fish and game.

25 “Existing Use”, any commercial or recreational project, facility, roadway, industrial or  
26 utility corridor, or the repair or future maintenance therein within its existing parameters:

27 (1) existing as of the date of enactment of this act, or

28 (2) approved under the Massachusetts Environmental Policy Act (“MEPA”) and where  
29 any required approvals and permits have been issued by state and federal agencies, as of the date  
30 of such enactment; provided such approvals or permits are valid and which if challenged in a  
31 timely judicial proceeding has been upheld by a final court order.

32           Section 53. (a) The secretary shall conduct an inventory of the forests on state-owned  
33 land to determine the extent and condition of old growth forest stands based on existing  
34 inventory data and assessments by the departments of conservation and recreation and the  
35 department of fish and game. The secretary shall direct such departments to conduct additional  
36 assessments and inventories as the secretary deems necessary. The preliminary identification of  
37 old growth forest stands should also include an estimate of necessary buffer areas, including an  
38 explanation of the rationale for the estimated size and shape of such buffer areas.

39           (b) The secretary may designate a reserve comprised of old growth forest, together with  
40 buffer areas, after the forest area has been presented by a recommending party to the secretary in  
41 accordance with regulations adopted by the secretary. In approving, rejecting or modifying a  
42 designation, the secretary shall consider:

43           (1) whether the area recommended is consistent with the definitions of old growth forest  
44 and buffer area;

45           (2) whether such designation is consistent with the ecological, historical, educational,  
46 cultural, economic, water supply, recreational and other public values of the area; and

47           (3) the role of the proposed area within a statewide old growth forest reserve system.

48           (c) If the recommended area appears to meet the definition of an old growth forest as set  
49 forth under this section and other criteria established by the secretary pursuant to this section, the  
50 secretary may designate it as an old-growth forest reserve after: (i) holding a public hearing  
51 within 180 days of the presentation to the secretary, to be held in the region where the the  
52 proposed old growth reserve is located; and (ii) consulting with elected officials of each town  
53 where the proposed old-growth reserve is located.

54 Section 54. (a) The secretary shall develop, in consultation with the recommending party  
55 and, if different, the administering agency, plans for the management and protection of old  
56 growth forest reserves. The secretary shall authorize the continuation of fishing and hunting in  
57 designated old growth forest reserves, unless prohibited by regulation. Notwithstanding the  
58 previous sentence, the administering agency, after such designation, may restrict or prohibit any  
59 activity of fishing and hunting if the agency determines the activity is not suitable for the  
60 protection and management of the old growth forest reserve. The secretary may also authorize the  
61 continuation of any existing use within the old growth forest reserve, provided such use does not  
62 significantly contribute to erosion or other harmful impacts on the forest resources. Upon a  
63 determination of the adequacy of a recommendation, the secretary shall establish a moratorium  
64 on any activity that is incompatible with the establishment of an old growth forest reserve at such  
65 location pending a final determination on designating such area an old growth forest reserve.

66 (b) The following uses and activities shall be prohibited within the boundaries of old  
67 growth forest reserves that have been designated by the secretary in accordance with the  
68 provisions under of section 53: (i) new commercial, industrial, roadway or utility development;  
69 (ii) new or expanded recreational facilities and uses involving physical impacts to vegetation or  
70 soils; and (iii) active timber management practices. Removal or alteration of vegetation and soils,  
71 and collecting or harvesting of plants shall be prohibited except in connection with a scientific  
72 investigation or restoration program approved by the secretary. The prohibitions in this  
73 paragraph shall not apply to emergency personnel in the event of a medical or public safety  
74 emergency in an old growth forest reserve. The secretary may approve other exceptions to the  
75 prohibitions by issuing a written declaration of emergency in the event of a major accidental,  
76 human-induced disturbance, including without limitations in the event of the introduction of

77 exotic invasive plants, disease or insects threatens the integrity of an old growth reserve; a public  
78 health, or public safety emergency and to protect the health and well-being of the surrounding  
79 public and private forests. The secretary shall restrict management of invasive plants, diseases or  
80 insects to activities that are essential to the maintenance of the natural characteristics of the old  
81 growth forest reserves, and shall condition such activities to minimize interference with the  
82 development and maintenance of natural old growth forest conditions without harming the health  
83 and well-being of the surrounding public and private forests.

84 (c) The secretary shall adopt regulations for the establishment and management of old  
85 growth forest reserves.

86 (d) Any person who violates this section or any regulation promulgated pursuant to this  
87 section shall be punished by a fine of not more than \$5,000 or by imprisonment in a house of  
88 correction for not more than 1 year or both such fine and imprisonment. Each day such violation  
89 occurs or continues shall be considered a separate violation.

90 (e) The superior court shall have jurisdiction to enjoin violations of, or to grant such  
91 additional relief as it deems necessary or appropriate to secure compliance with this section upon  
92 petition of the secretary or the attorney general.

93 SECTION 2. The secretary of energy and environmental affairs shall establish a research  
94 and education program to monitor the status of forests within old growth forest reserves and to  
95 promote understanding of old growth forest reserves.

96 SECTION 3. Chapter 23J of the General Laws is hereby amended by inserting after  
97 section 6 the following new section:-

98 Section 6A. Statewide plan for protecting carbon sequestration in public and private  
99 woodlands and woodlots.

100 The Center shall undertake a study of public and private woodlands and woodlots in the  
101 Commonwealth to measure the aggregate amount of carbon sequestered in said woodlands and  
102 woodlots in the trees, roots and soil. Within 240 days of said study's completion, the Center  
103 shall develop and implement a comprehensive statewide plan for the protection of both public  
104 and private woodlands and woodlots that shall include policies for maintaining, enhancing and  
105 protecting the carbon sequestered. The Center shall also work in collaboration with the  
106 Executive Office of Energy and the Environment to establish policies and procedures where the  
107 aggregate amount of the annual estimate of carbon sequestered in public and private woodlands  
108 and woodlots shall be included as part of the Commonwealth's climate change goals and  
109 renewable energy targets, and carbon emission reduction goals as provided in the Green  
110 Communities Act.

111 SECTION 4. Section 11F½ of Chapter 25A of the General Law, 2016 Official Edition, is  
112 hereby amended:

113 1) In line 16, by striking out the word "biomass";

114 2) In line 23-25 by striking out the phrase "provided, however, that facilities using  
115 biomass fuel shall be low emission, use efficient energy conversion technologies and fuel that is  
116 produced by means of sustainable forestry practices;"

117 3) In line 33 by inserting after the words, "wood and", in line 13, the following phrase "  
118 (F) biomass; (G) municipal solid waste;"

- 119 4) In line 33 by replacing the phrase “(F)” with (H)”.
- 120 5) In lines 36-37 by striking out the phrase “eligible biomass”;
- 121 6) In line 41 by striking out the phrase “eligible biomass”;
- 122 7) In line 47 by striking out the phrase “eligible biomass”;
- 123 8) In line 50 by inserting after the word, “feasible;”, the following word “and”;
- 124 9) In line 50 by striking out the phrase “eligible biomass”;
- 125 10) In lines 52-58 by striking out the phrase “; and (v) in consultation with the  
126 department of conservation and recreation, for forest-derived biomass, requirements that fuel  
127 shall be provided by means of conservation and recreation, for forest-derived biomass,  
128 requirements that fuel shall be provided by means of sustainable forestry practices; provided,  
129 however, that the department shall adopt any existing or new biomass fuel sustainability  
130 standards if deemed appropriate by the department after a public comment process.”.

131 SECTION 5. Section 8 of Chapter 23J of the General Laws is hereby amended by  
132 striking the following:- “low-emission advanced biomass power conversion technologies using  
133 such biomass fuels as wood, agricultural or food wastes; biogas, biodiesel or organic refuse-  
134 derived fuel;”

135 SECTION 6. Section 11F of Chapter 25A of the General Laws is hereby amended:

- 136 1) in clause (b) by striking out the phrase “low emission advanced biomass power  
137 conversion technologies using fuels such as wood, by-products or waste from agricultural crops,



138 food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel,  
139 organic refuse-derived fuel, or algae; or (9)”

140 2) in clause (c) by striking out the phrase “low emission advanced biomass power  
141 conversion technologies using fuels such as wood, by-products or waste from agricultural crops,  
142 food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel,  
143 organic refuse-derived fuel, or algae; (8)”

144 3) in clause (d) by striking out the phrase “low emission advanced biomass power  
145 conversion technologies using fuels such as wood, by-products or waste from agricultural crops,  
146 food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel,  
147 organic refuse-derived fuel, or algae; (9)”

148 SECTION 7. Section 44N of Chapter 149 of the General Laws is hereby amended by  
149 striking the word “biomass” from the definition of the term “Energy System”.

150 SECTION 8. Section 1 of Chapter 23J of the General Laws is hereby amended by  
151 striking the word “biomass” from the definition of the term “Clean Energy”.

152 SECTION 9. Section 1 of Chapter 164 of the General Laws is hereby amended:

153 1) by striking the word “biomass” from the definition for the term “alternative energy  
154 development”;

155 2) by striking the word “biomass” from the definition for the term “alternative energy  
156 property”;

157 3) by striking the phrase “and low emission advanced biomass power conversion  
158 technologies using such fuels such as wood, by-products or waste from agricultural crops, food

159 or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic  
160 refuse-derived fuel, or algae” from the definition for the term “renewable energy”;

161 4) by striking the word “biomass” in each appearance from the definition for the term  
162 “small power production facility”.

163 SECTION 10. Section 3 of Chapter 25A of the General Laws is hereby amended:

164 1) by striking the word “biomass” from the definition for the term “alternative energy  
165 development”;

166 2) by striking the work “biomass” from the definition for the term “alternative energy  
167 property”.

168 SECTION 11. The secretary of energy and environmental affairs shall file a report with  
169 the joint committee on environment, natural resources and agriculture within 1 year after the  
170 effective date of this act identifying the results of the inventory, the regulations developed, and  
171 the progress made in designating old growth forest reserves and the preparation of management  
172 plans for old growth forest reserves pursuant to sections 1 and 2 of this act.

173 SECTION 12. Forest Resilience Program

174

175 (a). For the purposes of this section, the following words shall, unless the context clearly  
176 requires otherwise, have the following meaning:-

177 “Forest resilience program”, a program overseen by the department of conservation and  
178 recreation that outlines forest practices to improve the resilience to climate change impacts and

179 to increase the storage of carbon in forests enrolled. The implementation of these practices is  
180 shall be approved by the department of conservation and recreation in forest resilience plans and  
181 overseen by foresters licensed in compliance with sections 47 to 49 inclusive of chapter 132 of  
182 the general laws.

183

184 (b) Section 6 of chapter 61 of the general laws is hereby amended by adding the  
185 following new paragraphs:-

186 In addition to the preferential tax treatment provided to forest land landowners who  
187 maintain their property as open space for the purposes of timber production under this chapter,  
188 each said forest owner who has an approved 20-year forest resilience plan under the forest  
189 resilience program shall also be eligible for an annual grant to improve the stewardship of their  
190 forest. Such grants shall include, but not be limited to, reimbursement for costs associated with  
191 forest resilience practices. The department of conservation and recreation shall determine  
192 reasonable grant amounts for forest land owners, which may be guided by regional carbon  
193 markets and policies and incentives for natural and working lands under chapter 21N of the  
194 general laws.

195

196 The municipality where the forest land is located shall also be eligible for grant for the  
197 acreage of forest land with an approved 20-year forest resilience plan, the amount and terms of  
198 which shall be determined by the executive office of energy and environmental affairs in  
199 consultation with the department of conservation and recreation. The grant amount shall mitigate  
200 for some of the loss of tax revenue., such as a reimbursement grant, to improve the stewardship

201 of their forest, to be determined by the department of conservation and recreation. The  
202 municipality where the forest land is located shall also be eligible for a grant valued per acre for  
203 such qualified forest land, the amount and terms of which shall be determined by the executive  
204 office of energy and environmental affairs in consultation with the department of conservation  
205 and recreation. Said grants to municipalities shall be not less than the per acre value for the  
206 municipality's reimbursement per acre for state-owned land as determined by the state treasurer  
207 in sections 16 and 17 of chapter 58 of the General Laws.

208

209 The global warming solutions trust fund created in section 35ggg of chapter 10 of the  
210 general laws or other revenues from appropriations or other financial sources authorized by the  
211 general court, including but not limited to bond revenues, shall be utilized to fund grants and  
212 technical assistance under the 20-year forest resilience program to enhance the sequestration and  
213 storage of carbon by forest lands owners enrolled in the forest resiliency program.

214

215 The department of conservation and recreation shall administer said grant program.

216

217 SECTION 13. Section 6 of chapter 61 of the general laws is hereby amended by adding  
218 the following new paragraph:-

219

220 Any land in forest production use which is valued, assessed, and taxed under this chapter,  
221 and which is enrolled in the forest resilience program for a 20 year term, and which is sold for

222 other use within a period of 20 years after the date of its acquisition or after the earliest date of its  
223 uninterrupted use by the current owner in forest production, whichever is earlier, shall be subject  
224 to a conveyance tax applicable to the total sales price of that land, which tax shall be in addition  
225 to taxes that may be imposed under any other law. Notwithstanding the previous sentence, no  
226 conveyance tax shall be assessed if the land involved, or a lesser interest in that land, is acquired  
227 for a natural resource purpose by the city or town in which it is situated, by the commonwealth  
228 or by a nonprofit conservation organization, but if any portion of the land is sold or converted to  
229 commercial, residential or industrial use within 10 20 years after acquisition by a nonprofit  
230 conservation organization, the conveyance tax shall be assessed against the nonprofit  
231 conservation organization in the amount that would have been assessed at the time of acquisition  
232 of the subject parcel by the nonprofit conservation organization had such transaction been  
233 subject to a conveyance tax. The conveyance tax shall be assessed on only that portion of land  
234 whose use has changed. The conveyance tax shall be at the following rate: 10 5 per cent if sold  
235 within the first two three years of ownership; 6 9 per cent if sold within the fourth fourth through  
236 seventh year of ownership; 8 per cent if sold within the sixth year of ownership; 7 per cent if sold  
237 within the eighth through eleventh eighth year of ownership; 6 per cent if sold within the tenth  
238 year of ownership; 5 per cent if sold within the twelfth year of ownership; 4 per cent if sold  
239 within the fourteenth year of ownership; 3 8 per cent if sold within the sixteenth eleventh through  
240 fifteenth year of ownership; 2 9 per cent if sold within the eighteenth fifteenth through eighteenth  
241 year of ownership; and 10 per cent if sold within the eighteenth through twentieth year of  
242 ownership. No conveyance tax shall be imposed under this section after the end of the twentieth  
243 year of ownership. The conveyance tax shall be due and payable by the grantor at the time of  
244 transfer of the property by deed or other instrument of conveyance and shall be payable to the tax

245 collector of the city or town in which the property is entered upon the tax list, but in the case of  
246 taking by eminent domain, the value of the property taken shall be determined in accordance  
247 with chapter 79, and the amount of conveyance tax, if any, shall be added as an added value. If  
248 there is filed with the board of assessors an affidavit by the purchaser that the land is being  
249 purchased for forest production use, no conveyance tax shall be payable by the seller by reasons  
250 of the sale, but if the land is not in fact continued in this use for at least 5 consecutive years, the  
251 purchaser shall be liable for any conveyance tax that would have been payable on the sale as a  
252 sale for other use. The conveyance tax shall be assessed on only that portion of land for which  
253 the use has changed. Any conveyance tax collected by a municipality based on withdrawal from  
254 the forest resilience program must be used to increase the climate resilience of natural and  
255 working lands.

256

257 SECTION 14. Section 2 of chapter 61 of the general laws is hereby amended by adding  
258 the following new words after the phrase “at least every ten years” , or at least after every  
259 twenty years for the forest resilience program,

260 SECTION 15. Sections 1, 2, and 3 shall take effect on July 31, 2022.

261

262 SECTION 16. The department of conservation and recreation shall promulgate  
263 regulations no less than 180 days after passage of this act.

264 SECTION 17. Section 2 of Chapter 61 of the general laws shall be amended by changing  
265 “10” in line 1 to “3”.

266 SECTION 18. Section 40 of Chapter 132 of the General Laws is hereby amended by  
267 striking the second paragraph in its entirety and replacing it with the following:-

268 Therefore, it is hereby declared to be the policy of the commonwealth that all lands  
269 devoted to forest growth shall be kept in such condition as shall not jeopardize the public  
270 interests, and that the policy of the commonwealth shall further be one of cooperation with the  
271 landowners and other agencies interested in forestry practices to preserve forested lands for the  
272 betterment of the environment as a whole, to minimize cutting trees on all state-owned lands,  
273 except as necessary to maintain proper forest health and safety.

274 SECTION 19. Section 11F of Chapter 25A of the General Laws is hereby amended in  
275 subsection (b) by adding after the words solar thermal electric energy, the following:- “,  
276 provided, that the solar photovoltaic or solar thermal electric energy source was not constructed  
277 on previously forested lands”.